

Senate Bill No. 1687

CHAPTER 288

An act to amend Section 1701 of the Labor Code, relating to employment.

[Approved by Governor August 24, 2004. Filed with Secretary of State August 24, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1687, Murray. Advance-fee talent services.

Existing law regulates agreements for advance-fee talent services, as defined, and includes the right to a refund of any advance fee paid and the right to cancel any contract for advance-fee talent services. Persons engaging in the business of advance-fee talent services are required to provide a written disclosure to the artist, file a bond with the Labor Commissioner, and maintain specified records. Advance-fee talent services are prohibited from, among other things, charging an artist for photographs or lessons. Under existing law, any person who willfully violates any of these provisions is guilty of a misdemeanor.

This bill would revise the definition of advance-fee talent service to include a person who charges, attempts to charge, or receives an advance fee from an artist for specified services, or for the purchase of any other product or service, including, but not limited to, creating or providing photographs or providing lessons, coaching, or similar training, in order to obtain from or through the advance-fee talent service one or more of the specified services. The bill would expand the list of services specified for purposes of this definition to include procuring, offering, promising, or attempting to procure auditions for the artist. By expanding the scope of an existing crime by making the crime applicable to a new category of persons, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 1701 of the Labor Code is amended to read:

1701. For purposes of this chapter, the following terms have the following meanings:

(a) (1) “Advance fee” means any fee due from or paid by an artist prior to the artist obtaining actual employment as an artist or prior to the artist receiving actual earnings as an artist or that exceeds the actual earnings received by the artist as an artist.

(2) “Advance fee” does not include reimbursements for out-of-pocket costs actually incurred by the payee on behalf of the artist for services rendered or goods provided to the artist by an independent third party if all of the following conditions are met:

(A) The payee has no direct or indirect financial interest in the third party.

(B) The payee does not accept any referral fee or other consideration for referring the artist.

(C) The services rendered or goods provided for the out-of-pocket costs are not represented to be, and are not, a condition for the payee to register or list the artist with the payee.

(D) The payee maintains adequate records to establish that the amount to be reimbursed was actually advanced or owed to a third party and that the third party is not a person in which the payee has a direct or indirect financial interest or from which the payee receives any consideration for referring the artist.

(E) The burden of producing evidence to support a defense based upon an exemption or an exception provided in this paragraph is upon the person claiming it.

(b) “Advance-fee talent service” means a person who charges, attempts to charge, or receives an advance fee from an artist for one or more of the following, or for the purchase of any other product or service, including, but not limited to, those described in subdivisions (e) to (i), inclusive, of Section 1701.12, in order to obtain from or through the service one or more of the following:

(1) Procuring, offering, promising, or attempting to procure employment, engagements, or auditions for the artist.

(2) Managing or directing the development or advancement of the artist’s career as an artist.

(3) Career counseling, career consulting, vocational guidance, aptitude testing, evaluation, or planning, in each case relating to the preparation of the artist for employment as an artist.

(c) “Artist” or “artists” means persons who seek to become or are actors or actresses rendering services on the legitimate stage or in the production of motion pictures, radio artists, musical artists, musical organizations, directors of legitimate stage, motion picture and radio productions, musical directors, writers, cinematographers, composers,



lyricists, arrangers, models, extras, and other artists or persons rendering professional services in motion picture, theatrical, radio, television, and other entertainment enterprises.

(d) “Fee” means any money or other valuable consideration paid or promised to be paid by or for an artist for services rendered or to be rendered by any person conducting the business of an advance-fee talent service.

(e) “Person” means any individual, company, society, firm, partnership, association, corporation, limited liability company, trust, or other organization.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

